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C. MICHAEL KILBURN
PAT ARNOLD SOUTH
DAVID G. YOUNG

BOARD OF COUNTY COMMISSIONERS
WARREN COUNTY, OHIO

MINUTES: Regular Session – February 3, 2009

The Board met in regular session pursuant to adjournment of the January 29, 2009, meeting.

Pat Arnold South - present

C. Michael Kilburn - present

David G. Young - present

Tina Davis, Clerk – present

- 09-0171 A resolution was adopted to hire James Brewer as Sewer System Maintenance Worker II, within the Warren County Water and Sewer Department.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0172 A resolution was adopted to approve Reclassification of Michael Yetter from the position of Zoning Inspector II to the position of Zoning Inspector Supervisor.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0173 A resolution was adopted to Waive Water Tap-in Fees for the Ohio Department of Transportation District 8 Facilities at 505 South State Route 741, Lebanon.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0174 A resolution was adopted to Amend Standard Details for the Warren County Water and Sewer Department.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0175 A resolution was adopted to approve and enter into Agreement for Renewal of Internet Connectivity with TW Telecom on behalf of Warren County Telecommunications.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent

- 09-0176 A resolution was adopted to authorize the President and/or Vice President of this Board to sign the Satisfaction of Mortgage for Raymond T. and Brenda L. Patton.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0177 A resolution was adopted to approve Appropriation Decreases within various Funds. Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0178 A resolution was adopted to approve Appropriation Adjustment within Emergency Services / EMA Fund #264.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0179 A resolution was adopted to approve Supplemental Appropriations into Sheriff's Fund #288 and #630.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0180 A resolution was adopted to authorize payment of Bills.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0181 A resolution was adopted to remove Probationary Employee from employment within the Department of Job and Family Services, Children Services Division.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0182 A resolution was adopted to accept Resignation of Jacqueline Wiseman, Unit Support Worker II, within the Warren County Department of Job and Family Services, Human Services Division, effective February 2, 2009.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0183 A resolution was adopted to approve Leave Donation for Julie McGeorge, Administrative Support within the Warren County Office of Management and Budget. Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0184 A resolution was adopted to authorize the posting of the “Unit Support Worker II” position within the Human Services Department, in accordance with Warren County Personnel Policy Manual, Section 2.02 (a).
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0185 A resolution was adopted to enter into Agreement with Yvonne E. Bradstreet for Water Service to property at 9898 Bunnell Hill Road.
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent
- 09-0186 A resolution was adopted to continue Hearing concerning the Petition for Annexation of 164.69 acres to the Village of South Lebanon filed pursuant to Ohio Revised Code Section 709.02 (Regular Annexation).
Vote: Mrs. South – yea; Mr. Young – yea; Mr. Kilburn - absent

DISCUSSIONS

On motion, upon unanimous call of the roll, the Board entered into executive session at 9:20 a.m. to discuss personnel matters relative to hiring within the Dog Warden's Office pursuant to Ohio Revised Code Section 121.22 (G)(1) and exited at 10:25 a.m.

On motion, upon unanimous call of the roll, the Board accepted and approved the consent agenda.

Commissioner Kilburn entered the meeting at 10:23 a.m.

Richard Renneker, Sanitary Engineer, was present and stated that Mrs. Bradstreet, a Bunnell Hill Road resident, is out of water and desires to "side tap" the existing water line.

Mr. Renneker stated that the normal procedure is for Mrs. Bradstreet to sign an agreement stating that if and when a waterline project ever occurs in front of her property, she will participate.

Upon further discussion, the Board entered into an agreement with Yvonne E. Bradstreet for Water Service to property at 9898 Bunnell Hill Road.

PUBLIC HEARING
ANNEXATION PETITION OF J. WILLIAM DUNING, AGENT
TO ANNEX 164.69 ACRES TO THE VILLAGE OF SOUTH LEBANON

The Board met this 3rd day of February 2009, in the Commissioners' Meeting Room, to consider the annexation petition of J. William Duning, agent to annex 164.69 acres to the Village of South Lebanon filed pursuant to Ohio Revised Code Section 709.02 (General Annexation).

Commissioner Kilburn read aloud the instruction prepared by Bruce McGary, Chief Deputy Prosecutor, relative to how the public hearing will be conducted.

Tina Davis, Clerk of Commissioners, reviewed the documents received to date relative to the annexation petition.

Commissioner Kilburn then swore those present who planned to provide testimony.

Mr. Duning then made opening statements.

C. Keith Nixon, attorney for South Lebanon, stated he does not intent to provide evidence relative to the annexation at this time.

Tom Swope, attorney for Deerfield Township, stated he intends to provide evidence that there is no benefit to this annexation petition being approved. He then stated that the shape of the annexation area has little contiguous contact with the Village of South Lebanon and provides no sense of unity to the Village. He stated he intends to call witnesses from Warren County, Ohio Department of Natural Resources, Little Miami, Inc. and Deerfield Township.

Warren Ritchie, attorney for Hamilton Township, stated that the same arguments as Deerfield Township apply to Hamilton Township. He stated his desire to examine the agent and would like to hear testimony relative to the validity of the petition.

Chris Koch, Union Township Trustee, stated he will provide testimony relative to Union Township's feelings towards annexation.

Commissioner Kilburn then stated the following:

1. Are there any owners who signed the petition that desire to have their signature removed in accordance with ORC 709.032 (D)? There was no one present who responded.
2. Are there any challenges as to the authority to sign said annexation petition? There was no one present who responded.
3. Do the signatures constitute the majority of owners of property within the annexation petition? No one stated objections to the majority signatures being provided.
4. The County Engineer reports that the map and legal description are accurate.
5. The agent has provided the proper notices relative to the annexation procedure.
6. Are there any procedural defects relative to the petition?

Mr. Ritchie stated his challenge relative to the validity of the petition as it was written with special instructions that are required within an expedited annexation, no a general annexation. He then stated that the petition was signed by the property owners prior to the survey of land being filed with the County Engineer.

Mr. Swope stated that Deerfield Township joins Mr. Ritchie's challenge.

Mr. Koch stated that Union Township also joins Mr. Ritchie's challenge.

Mr. McGary recommended the Board note the objections for the record and proceed with the public hearing. He stated that the law provided that the Board shall cure procedural defects within an annexation petition. He then stated that this defect can be cured by the agent stating the petition was filed under the general annexation process and not the expedited process.

Mr. Duning clarified that is annexation petition is a general (regular) annexation. He stated that the property owners signed the petition understanding the type of petition as well as the property proposed to be annexed. He then stated that, pursuant to statute, 100% of the property owners have signed the petition.

The Board then proceeded with the hearing on merits of the petition.

Mr. Duning stated that 100% of the owners supported the annexation. He stated that he represents the Middleton's whose property fronts Mason-Morrow-Millgrove Road. He then stated that Little Miami, Inc. wants annexation for a different reason. He stated that the Middleton's desire municipal services and Little Miami Inc. desire to preserve the property through the establishment of zoning restrictions along the river.

He then presented Petitioner's Exhibit 1 – Map of South Lebanon in Color

James Smith, Mayor of South Lebanon, was examined by Mr. Duning.

Mr. Smith testified to the following:

The Village desires to annex the land in order to protect the integrity of the Little Miami River. He then presented Petitioner's Exhibit 2 – Little Miami River Overlay District.

There was then discussion relative to the proposed adoption of the Zoning Code Amendment.

Mr. Nixon stated the intent to incorporate the zoning amendment once the annexation is accepted by the Village of South Lebanon.

Mr. Swope then cross examined Mayor Smith.

Commissioner Kilburn exited the meeting stating his intent to listen to the audio recording of the remaining testimony provided.

Mr. Swope then cross examined Mr. Smith and presented the following evidence in opposition to annexation:

Deerfield Township Exhibit 1 -	Article 12: LMR Little Miami River Overlay District
Deerfield Township Exhibit 2 -	The Pre-Annexation Agreement between LMI, Inc. and Village of South Lebanon

Mr. Ritchie then cross examined Mr. Smith and presented the following evidence in opposition to the annexation:

Hamilton Township Exhibit 1 -	Map of existing boundary of South Lebanon
Hamilton Township Exhibit 2 -	Proposed map with Commissioner owned property and ODNR property removed from petition

Mr. Duning then examined William David Madison, Vice-Mayor of South Lebanon.

Mr. Madison read a statement in favor of annexation.

Mr. Ritchie and Mr. Swope then cross examined Mr. Madison.

Mr. Duning then examined Robert Craig, South Lebanon Administrator, who stated there are deed restrictions on the Little Miami Inc. property.

He then presented Petitioners Exhibit 3 - a copy of Little Miami Inc.'s deed

Mr. Ritchie and Mr. Swope then cross examined Mr. Craig.

Mr. Duning stated he had no additional testimony to present at this time.

Joe Walter, attorney for Deerfield Township, stated that the Clerk of Commissioners had issued subpoena's upon the request of Deerfield Township to Dave Gully, County Administrator, the Director of Ohio Department of Natural Resources, and Eric Partee, Executive Director of Little Miami, Inc.

Mr. Walker examined Mr. Gully who stated he had no knowledge relative to the annexation of the Board owned property.

Mr. Walker then called the representatives from ODNR and Little Miami, Inc. It was determined that those individuals were not present.

Commissioner Young stated his desire to continue in progress in order to allow testimony from the subpoenaed witnesses.

Mr. Walker then examined Doug Weimeyer, Deerfield Township Fire Chief. He then presented Deerfield Township Exhibit 3 – Map of the Annexed Territory within Deerfield Township.

Mr. Walker then stated that was his last witness on behalf of Deerfield Township and requested the Board to continue the public hearing in order for the subpoenaed witnesses to appear.

Mr. Ritchie then examined Frank Richardson, Hamilton Township Police Chief and Gary Boehres, Hamilton Township Planning Director, relative to the annexation petition. He then presented Hamilton Township Exhibit 3 – Flood Plain Map

Mr. Duning crossed examined Mr. Richardson and Mr. Boehres.

Mr. Ritchie then examined Becky Ehling, Hamilton Township Trustee, who stated that prior to this annexation petition, South Lebanon had agreed to remove property within Hamilton Township to the south and west of the river and to not include any further Hamilton Township property within their annexation petitions.

Mr. Ritchie then presented Hamilton Township Exhibit 4 – a copy of the Bayou St. annexation map and Hamilton Township Exhibit 5 – a copy of the final amended approved Bayou St. annexation map.

Mr. Swope then examined Lois McKnight, Deerfield Township Community Development Director. He then presented Deerfield Township Exhibit 4 – Map of area with property owners.

Robert Reiners, Deerfield Township resident, stated his concern with the process being utilized in the name of conservation.

Don Peterman, Hamilton Township resident and President of the River's Bend Homeowners Association, stated his opposition to the annexation petition.

Chris Ramono, Deerfield Township Trustee, stated his opposition to the annexation petition.

Mr. Duning cross examined Mr. Ramono.

Chris Koch, Union Township Trustee, stated that Union Township has a past history of working with South Lebanon. He then stated that South Lebanon does not have any zoning in place and they have abandoned trailers along the river along with high weeds and stated his opposition to the annexation petition.

Mr. Duning then called Mayor Smith in response to Mr. Koch's testimony stating the exception he takes with Mr. Koch's testimony.

There was then discussion relative to the need to continue this public hearing along with the 90 day requirement process.

Upon discussion, Mr. Duning stated he waives his right to a decision relative to the annexation petition within 90 days as required by law.

Upon further discussion, the Board resolved (Resolution #09-186) to continue the public hearing to march 3, 2009, at 10:30 a.m.

Upon motion the meeting was adjourned.

Pat Arnold South, President

C. Michael Kilburn

David G. Young

I hereby certify that the foregoing is a true and correct copy of the minutes of the meeting of the Board of County Commissioners held on February 3, 2009, in compliance with Section 121.22 O.R.C.

Tina Davis, Clerk
Board of County Commissioners
Warren County, Ohio